In the High Court of Judicature at Madras

Dated: 26.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

W.A Nos.334 & 3955/2003 & W.P.No.13927/2003
& WAMP No.407/2003

1.Coimbatore City Municipal Corporation,
rep. by its Commissioner, Coimbatore.

2.The Coimbatore City Municipal
Corporation Mayor in Council
Coimbatore. .. Appellants in
WA.334/2003 & Respondents
in WA.3955/03 &WP13927/03

..Vs..

R.A.Rajendrakumar .. Respondent in
WA.334/2003 & Appellant in
WA.3955/03 & WP13927/03

Writ Appeal No.334 of 2003 filed under Clause 15 of the Letters Patent against the order made in W.P.No.30139 of 2002 (now renumbered as WP.30051/2002) dated 24.07.2002 as modified in WPMP No.51840 of 2002 on 06.09.2002.

W.P.No.30139/2002:- to issue a writ of certiorarified Mandamus calling for the records of the respondents herein pertaining to the resolution No.81 dated 28.06.2002 and quash the same consequently forbearing the respondents herein from interfering with the petitioners right under the contract awarded to the Petitioner in the Counsel meeting of the respondent dated 11.06.2001.

Writ Appeal No.3955 of 2003 filed under Clause 15 of the Letters Patent against the order made in WPMP.No.17437 of 2003 in W.P.No.13927/2003 dated 07.10.2003 pleased to issue an order of temporary Injunction restraining the Respondents from in any way calling for or concluding any tender either under reference

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No.Na.Ka.No.4480/2001/THO/MU.001 dated 7.4.2003 otherwise except in accordance with further directions of this Honourable Court pending W.P.NO.13927/03.

to issue a writ of certiorarified Mandamus calling for the records of the First respondent in Na.Ka.No.4480/2001/THO.MU.00.1 dated 7th April 2003, and quash the same and consequently forbear the Respondents from pursuing the tender process accept as per order dated 6.9.2002 made in W.P.NO.30139/02.

W.P.No.13927 of 2003 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.4480/2001/ THO.NU.OO.1 dated 7th April, 2003 and quash the same.

For Appellants in WA.334/2003 & Respondents in WA.3955/03 &WP13927/03 : Mr.R.Shivakumar

For Respondent in WA.334/2003 & Appellant in WA.3955/03 & WP13927/03 : Mr.Srinath Sridevan

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

W.A.No.334 of 2003 by the Coimbatore City Municipal Corporation is directed against the orders of the learned single Judge dated 24.07.2002 and 06.09.2002 made in W.P.No.30139 of 2002, in and by which, the learned Judge has directed the writ petitioner (respondent herein) to make a representation to the Coimbatore City Municipal Corporation, Mayor in Council, setting out all his grievances within 15 days from the date of receipt of a copy of the order. In the same order, the learned single Judge has directed the said authority to dispose of the same on merits and in accordance with law within a period of three weeks thereafter.

2. W.A.No.3955 of 2003 is directed against the order of the learned single judge dated 07.10.2003 made in WPMP No.17437 of 2003 in W.P.No.13927/2003, in and by which, the learned Judge, after finding that the earlier order dated 06.09.2002 passed in W.P.No.30139 of 2002 has been questioned by the Corporation by filing writ appeal, vacated the injunction granted earlier and dismissed the injunction petition.

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3. In W.P.No.13927 of 20034 the writ petitioner viz., R.A.Rajendrakumar, challenges the order dated 07.04.2003 of the Commissioner, Coimbatore City Municipal Corporation.

4. Since the issue raised in all the three matters is one and the same, they are being disposed of by following common judgment.

5. It is useful to refer the relief prayed for in W.P.No.30139 of 2002. Aggrieved by the resolution No.119 dated 28.06.2002, the writ petitioner R.A.Rajendrakumar has filed the said writ petition for quashing the same and also forbearing the respondents from interfering with his right under the contract awarded to him in the Council meeting of the respondent dated 11.06.2001. Though the petitioner has prayed such a relief, taking note of the grievance expressed as seen from the various averments filed in support of the writ petition, the learned single Judge by order dated 24.07.2002, permitted the petitioner to make a representation to the second respondent setting out all his grievances. With the said direction, the learned single Judge disposed of the said writ petition even on 24.07.2002. It is also relevant to note that the petitioner has made a representation to the Mayor in Council of the Coimbatore Corporation on 07.08.2002. The same was received by the office of the Mayor on 08.08.2002. Based on the said representation, the petitioner was heard in person on 27.08.2002 by the then Mayor and after considering his grievance, the Mayor has passed an order on 29.08.2002, rejecting the request of the petitioner. A perusal of the order of the Mayor dated 29.08.2002 makes it clear that all the grievances of the petitioner have been gone into including the period of tender etc. As against the above mentioned order of the Mayor, the petitioner filed WPMP No.51840 of 2002 in W.P.No.30139 of 2002 to clarify the earlier order dated 24.07.2002 made in W.P.No.30139 of 2002 with respect to the issue that the Mayor must dispose of his representation only in accordance with the decision of the Council thereon. While considering the said application, the learned single Judge once again directed the petitioner to make a representation to the second respondent setting out all his grievances. As stated earlier, on 29.08.2002 itself the Mayor of the Coimbatore Corporation after considering all the materials disposed of the representation of the petitioner. The said order of the Mayor was not brought to the notice of the learned Judge.

6. Though Mr.Srinath Sridevan, learned counsel appearing for the writ petitioner contended that the grievance of the petitioner was not fully considered by the Council, in view of the detailed order of the Mayor referred to above and limited direction issued by the learned Judge, we are unable to accept his contention. Though in the proceedings of the Commissioner, Corporation of Coimbatore as well as the order of the learned single Judge, there

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is no reference to the period, as discussed earlier, the order passed by the Mayor contains all the details. In view of the same, we are of the considered view that the question raised/grievance expressed cannot be gone into at this juncture. Still if the petitioner has any further grievance, we are of the view that the same cannot be agitated by way of writ petition and he is free to move the appropriate Civil Court if the same is permissble and no further direction need be granted.

7. In the light of our discussion, `W.A.No.334 of 2003 filed by the Municipal Corporation of Coimbatore is allowed. W.A.No.3955 of 2003 and W.P.No.13927 of 2003 are dismissed. No costs. W.A.M.P.No.407 of 2003 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

2.The Coimbatore City Municipal
Corporation Mayor in Council
Coimbatore.

1 cc to Mr. Srinath Sridevan, Advocate, sr. 12135
1 cc to Mr.R. Sivakumar, Advocate, Sr. 11449

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